

Christine Joyce

From: Steve Ledoux
Sent: Monday, January 09, 2012 9:56 AM
To: Christine Joyce
Subject: FW: Guidelines for remote participation
Attachments: remote participation guideline.docx

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From: Mike Gowing [<mailto:mikeg.acton@gmail.com>]
Sent: Friday, January 06, 2012 6:53 PM
To: Board of Selectmen
Subject: Guidelines for remote participation

As promised at the last meeting, I'm attaching the "guidelines for remote participation" that we will discuss, and hopefully, finalize and vote on next Monday. Please look over the attached document and be prepared on Monday to finalize it and vote to distribute it to all boards and committees. This will help us stretch our volunteer efforts going forward. Any typographical, wording or punctuation corrections can be sent directly to me before hand but to comply with Open Meeting Law, we cannot have an e-mail dialogue about content. Thank you all for your patience.

Acton Mass. Remote participation guidelines

The Board of Selectmen has adopted remote participation under 940 CMR 29.10(5) to **allow** board and committee members to participate remotely in meetings. The intent of this regulation was to allow participation under the auspices of Open Meeting Law when board members are unable to physically attend a public meeting. This document will help establish the guidelines by which remote participation can occur here in Acton.

Board Members who are participating remotely and those who are physically present must be **clearly audible** to each other (video feed is acceptable however telephonic connection will be the current standard). A quorum of the Board, including the Chairman of the Board, must be **physically present** at any meeting during which a Board Member participates remotely. If the Chairman of the Board is not physically present, a person authorized to chair the meeting (generally a Vice Chairman) must be physically present. Board Members participating remotely may vote and will not be deemed to be absent. Again, the person or persons calling in do not contribute toward a quorum but may vote. The Chairman, (or in their absence, the Vice Chairman or a designated appointee) must be physically present at the meeting.

The regulations set forth permissible reasons for remote participation [see 940 CMR 29.10(5)]. The permissible reasons according to the BOS for remote participation are: personal illness (self-determined); personal disability (temporary or permanent); emergency (within 12 hours of the meeting); military service; or geographic distance (greater than 20 miles). The Board Chair or the person chairing the meeting must determine that one or more of the factors makes the Board Member's physical attendance unreasonably difficult. The reason for a Member's remote participation and the determination that the absence is permissible must be stated during the meeting and reflected in the Board minutes.

The regulations also contain the procedure to be used for Board Members wishing to remotely participate. Any Board Member who wishes to participate remotely shall, as soon as reasonably possible (within 12 hours) prior to a meeting, notify the Chair or, in the Chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting the request. At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. This information shall be recorded in the meeting minutes. The responsibility for calling into the meeting will rest with the absentee.

All votes taken during any meeting in which a Board Member participates remotely shall be by roll call vote. The roll call votes will be reflected in the minutes. A Board Member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the board.

When feasible, the Chair or, in the Chair's absence, the person chairing the meeting, shall distribute to remote participants, in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting, and shall be listed in the meeting minutes and retained in accordance with G.L. c.30A, § 22 (agendas notwithstanding).

The regulations provide that a public Body (board or committee) may adopt bylaws or policies that prohibit or **further restrict** the use of remote participation. If a Board or committee is interested in adopting a more restrictive policy, it must be submitted to the BOS prior to the enactment for review and approval pursuant to G.L. c. 32, § 21(4). Violations of 940 CMR 29.10 are investigated by the Attorney General and may be resolved by ordering the public body to temporarily or permanently discontinue its use of remote participation. **So, to summarize the major rules:**

- **Audio input that is clearly audible to all parties**
- **A quorum must exist without the participation of the remote party**
- **The chairman (or his designee) needs to be present at the meeting**
- **A roll call vote is required for any and all votes**
- **Any additional remote participation restrictions must be preapproved by the BOS prior to the meeting**
- **Town will not be responsible for meeting space audio requirements at the schools, public safety building and/or library (cell phone with speaker phone capability is acceptable if audible by all parties)**
- **All minutes should reflect remote participation.**